

anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW.,

Washington, DC 20230, telephone: (202) 482-4737.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty

orders and findings with February anniversary dates.

**Initiation of Reviews**

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 29, 1996.

	Period to be reviewed
Antidumping duty proceedings	
India: Forged Stainless Steel Flanges: A-533-809 Akai Impex Ltd. ....	02/09/94-01/31/95
Japan: Mechanical Transfer Presses: A-588-810 Aida Engineering, Ltd., Hitachi Zosen Corporation, Ishikawajima-Harima Heavy Industries Co., Ltd., Komatsu, Ltd., Kurimoto, Ltd. ....	02/01/94-01/31/95
The People's Republic of China: Axes/Adzes; Bars/Wedges; Hammers/Sledges; and Picks/Mattocks: A-570-803 Fujian Machinery & Equipment Import & Export Corporation (FMEC), Henan Machinery Import & Export Co., Shandong Machinery Import & Export Corporation (SMC), Tianjin Machinery Import & Export Co. .... All other exporters of axes/adzes, bars/wedges, hammers/sledges, or picks/mattocks from the People's Republic of China are conditionally covered by this review	02/01/94-01/31/95
The People's Republic of China: Natural Paint Brushes: A-570-501 Yixing Sanai Brush Making Co. Ltd., Eastar B.F. (Thailand) Company Ltd., Hebei Animal By-Products I/E Corp., China National Metals & Minerals I/E Corp., Zhenjiang Trading Corp., Inner Mongolia Autonomous Region Light Industrial Products I/E Corp., China National Native Produce and Animal By-Products I/E Corp. .... All other exporters of paint brushes from the People's Republic of China are conditionally covered by this review	02/01/94-01/31/95
Countervailing duty proceedings	
Peru: Cotton Yarn, C-333-002 .....	01/01/94-12/31/94

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: March 8, 1995.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Compliance.*

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[A-549-810]

**Notice of Preliminary Negative Determination of Critical Circumstances: Disposable Pocket Lighters From Thailand**

**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:**

David R. Boyland, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4198.

*Preliminary Negative Determination of Critical Circumstances:* The Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value in this investigation on October 24, 1994 (59 FR 53414). On February 1, 1995, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise. On February 10, 1995, we received data from Thai Merry Co., Ltd. ("Thai Merry"), the respondent in this investigation, on U.S. shipment to the United States.

In accordance with 19 CFR 353.16(b)(2)(ii), when a critical

circumstances allegation is filed later than 20 days before the scheduled date of the preliminary determination, we must issue our preliminary determination no later than 30 days after the allegation is filed.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

**History of Dumping:** To support the claim that the first prong of the statutory requirement is met, petitioner cited the European Community's November 19, 1991, imposition of antidumping duties on gas-fueled, non-refillable pocket flint lighters from the People's Republic of China, Japan, Korea, and Thailand (Council Regulation (EEC) No. 3433/91). Therefore, because petitioner established a history of dumping of the subject merchandise, we are not required to consider whether the importer knew or should have known that the exporter was selling the subject merchandise at less than fair value.

**Massive Imports:** Because we have preliminarily determined that the first statutory criterion is met for finding critical circumstances, we must consider whether imports of the merchandise have been massive over a relatively short period in accordance with 19 CFR 353.16(f) and (g).

19 CFR 353.16(f) and 353.16(g) directs the Department to look at the following factors to determine whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition (see, *Preliminary Affirmative Determination of Critical Circumstances: Certain Cased Pencils From the People's Republic of China*, (59 FR 44128 (August 26, 1994)). Under 19 CFR 353.16(f)(2), unless imports of the subject merchandise have increased by at least 15 percent, we will not consider the imports to have been "massive."

Because a determination of critical circumstances should be based on company-specific shipment information (see, *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083 (July 9, 1993)), we requested that Thai Merry provide shipment information for the period from December 1, 1993 through April 30, 1994 ("pre-petition" period) and May 1, 1994 through September 30, 1994 ("post-petition" period). Pursuant to section 353.16(g) of the Department's antidumping regulations, in making critical circumstances determination, the Department normally considers the period beginning on the first day of the month of the initiation and ending at

least three months later. The Department considers this period because it is the period immediately prior to a preliminary determination in which exporters of the subject merchandise could take advantage of the knowledge of the dumping investigation to increase exports to the United States without being subject to antidumping duties (see, *Final Determination of Sales at Less Than Fair Value of Certain Internal-Combustion, Industrial Forklift Trucks from Japan*, (53 FR 12552, April 15, 1988)). For purposes of this final determination we are using as our comparison period five months prior to and five months subsequent to the initiation of this investigation.

Based on Thai Merry's shipment data, imports increased by an amount greater than 15 percent between the pre- and post-petition periods.

**Seasonality:** We found no evidence of seasonality, pursuant to section 353.16(1)(ii) of the Department's regulations.

**Share of Domestic Consumption:** Based on the information supplied in the critical circumstances allegation, Thai Merry's market share of domestic consumption (i.e., total imports from Thailand as a percentage of total domestic consumption) between the pre- and post-petition periods did not change by an amount greater than three percentage points. (See, the February 27, 1995 memorandum to Susan H. Kuhbach, Director of Countervailing Investigations from David R. Boyland, Case Analyst for a full discussion of this issue.)

**Other Factors:** Respondent argues that the increase in shipment was in response to a Consumer Product Safety Commission ("CPSC") regulation which came into effect on July 12, 1994, and was not an attempt to circumvent a potential antidumping duty order.

Respondent also argues that section 353.16(f)(2) and past precedent allow the Department to consider the impact of the CPSC regulation on imports in determining whether they were massive. Respondent cites a DOC position comment in Antidumping Duties: Final Rule which states that the 15 percent test is "not intended to limit the Department's discretion or responsibility to consider in each case the factors relevant to a decision regarding whether imports are 'massive'" (see, Final Rule, 54 FR 12742, 12751 (March 28, 1989)).

With respect to the increase in shipment between the pre- and post-petition periods, and the circumstances that surround it, May 1994 is the month within the post-petition period which

has been examined most closely by the Department. Based on an examination of past imports from Thailand, the highest volume of imports prior to the post-petition period occurred in August 1993. May 1994's volume of shipments was the only month during the post-petition period in which the level of shipments went outside the range established in August 1993. Hence, the surge in shipments that occurred in May represented a unique "spike" in the trend of shipments.

Also, the information provided to the Department shows that this dramatic increase in shipments was not sustained. If respondent was attempting to take advantage of the knowledge of an antidumping investigation to export prior to suspension of liquidation, we would expect the increase in shipment to be sustained up until the preliminary determination. This did not occur.

Finally, a significant percentage of the May 1994 shipments consisted of standard lighters which were to be banned pursuant to the July 1994 CPSC regulation. (Note: the CPSC gave notice of the impending ban on July 12, 1993. Thus, respondent was aware of the CPSC ban one year prior to its effective date. Additionally, orders shipped in May 1994 would arrive in the United States in June 1994; i.e., prior to the CPSC ban.) Based on this information, it is reasonable to assume that the CPSC regulation drove the sharp increase in imports between the pre- and post-petition periods, as opposed to the possible suspension of liquidation.

**Conclusion:** Based on (1) an evaluation of apparent domestic consumption during the pre- and post-petition period, as calculated by petitioner, (2) Thai Merry's share of domestic consumption during the pre- and post-petition periods, (3) the shipment data provided by respondent as compared to previous periods, and (4) consideration of the circumstances surrounding the large increase in shipment in May 1994, we preliminarily determine that critical circumstances do not exist. (A more detailed analysis of the critical circumstances allegation is contained in the February 27, 1995 memorandum to Susan H. Kuhbach, Director, Office of Countervailing Investigations from David R. Boyland, Case Analyst.)

**ITC Notification:** In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

**Public Comment:** Since this determination is being made subsequent to the due dates for public comment as published in our notice of preliminary determination of sales at less than fair value, we will accept written comments

limited to this preliminary determination on critical circumstances if they are submitted to the Assistant Secretary for Import Administration no later than March 6, 1995.

This determination is published pursuant to section 733(f) of the Act.

Dated: March 3, 1995.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

[FR Doc. 95-6402 Filed 3-14-95; 8:45 am]

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#### [A-301-801 and A-331-801]

#### **Amended Final Determinations of Sales at Less Than Fair Value: Fresh Cut Roses From Colombia and Ecuador**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 15, 1995.

**FOR FURTHER INFORMATION CONTACT:**

James Maeder or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3330 or (202) 482-3965, respectively.

#### **Amendments to the Final Determinations**

We are amending the final determinations of sales at less than fair value of fresh cut roses from Colombia and Ecuador to reflect the correction of ministerial errors made in the margin calculations in these determinations. Because corrections of ministerial errors for one company in the Colombian investigation results in its exclusion from any potential antidumping order, we are issuing this notice prior to the final determination of the U.S. International Trade Commission. These amendments to the final determinations are being published in accordance with 19 CFR 353.28(c).

#### **Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions in effect on December 31, 1994.

#### **Case History and Amendments of the Final Determinations**

In accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), on February 6, 1995, the Department of Commerce (the Department) published its final

determinations that fresh cut roses from Colombia and Ecuador were being sold at less than fair value (60 FR 6980, 7019). Subsequent to the final determinations, we received timely ministerial error allegations from certain respondents in the Colombian and Ecuadorian investigations pursuant to 19 CFR 353.28. Section 751(f) of the Act defines a "ministerial error" to be an error "in addition, subtraction or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial." Below is a discussion of the alleged errors that we determined to be ministerial errors as defined by section 751(f) of the Act. These, and the alleged errors that the Department determined not to be ministerial in nature, are detailed further in the Decision Memoranda from Gary Taverman to Barbara R. Stafford, dated March 3, 1995, which is on file in the Import Administration Central Records Unit, Room B-099 of the Main Commerce Building.

#### **Colombia**

On February 7 and 8, respondents Rosex Group, Prisma Group, Agricola Bojaca, Grupo Sabana, Flores Mocari, Caicedo Group, Grupo Intercontinental, and Grupo Papagayo, alleged that the Department made ministerial errors in its final determination and requested that the Department correct these errors. Petitioner provided comments on these allegations on February 14, 1995.

#### **Rosex Group**

*Issue 1:* Rosex Group states that the Department made a ministerial error in the calculation of its per unit credit expense. Rosex Group stated that it changed its reported interest rate in its December 5, 1994, sales listing from a dollar-denominated rate to a peso-denominated interest rate. Because Rosex Group calculated its U.S. imputed credit using a peso-denominated rate, it contends that the Department should have adjusted this rate instead of a dollar-denominated rate. Petitioner maintains that the Department's computer instructions to change the peso-based interest rate to a dollar-based rate appear to be correct.

We agree with respondent that this error constitutes a ministerial error as defined by section 751(f) of the Act. It was the Department's intention to use a U.S. interest rate of 7.575 percent in Rosex Group's imputed credit calculation. Therefore, we have corrected this ministerial error.

#### **Prisma**

*Issue 1:* Prisma argues that the computer program used to calculate its margin contained an error which incorrectly computed the per-unit commission for all U.S. sales observations. Stating that the Department intended to calculate a U.S. commission for ten specific U.S. sales observations, Prisma asserts that the program mistakenly caused every U.S. sales commission to be recalculated. In addition, Prisma claims that there is also a typographical error in the calculation of commissions for one sales observation.

We agree with Prisma that these are ministerial errors, and have revised the computer program accordingly.

*Issue 2:* With respect to inventory carrying costs, Prisma notes that it included the period normally covered by inventory carrying cost in its imputed credit calculation. As such, Prisma argues that the Department double-counted this expense by calculating a separate inventory carrying cost. Petitioner maintains that the Department imputed inventory carrying cost for seven days as best information available (BIA) for those respondents that failed to provide the data, and argues that because Prisma did not submit the data in the requested form, it cannot now argue double-counting to circumvent the application of BIA.

We agree with Prisma. We used BIA for inventory carrying cost for those respondents who had related parties in the United States and did not report inventory carrying costs on their exporter's sales price (ESP) sales. However, because Prisma does not have a related party in the United States, we incorrectly calculated inventory carrying costs. Therefore, we have adjusted for this ministerial error.

*Issue 3:* Prisma contends that the Department's inflation adjustment computation incorrectly assumed that all companies within the Prisma Group did not include the 1992 inflation adjustment in their submitted amortization expense. However, respondent notes that the cost verification report demonstrates that Prisma did include the 1992 inflation adjustment for farm Del Campo in its submitted amortization expenses.

We agree. The cost verification report at page 9 indicates that one of the seven Prisma Group farms (Del Campo) did include in its submitted cost information its inflation adjusted pre-production material amortization costs for years prior to the period of investigation (POI). The other six farms that make up the Prisma Group did not